



PATENT APPLICATION

2612
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P. 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Hirotake NOZAKI et al.

Group Art Unit: 2612

Application No.: 09/149,001

Examiner: L. Nguyen

Filed: September 8, 1998

Docket No.: 101516

For: ELECTRONIC CAMERA

REQUEST FOR RECONSIDERATION

RECEIVED

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

JAN 16 2004
Technology Center 2600

Sir:

In reply to the August 14, 2003 Office Action, the shortened statutory period for response having been extended by the attached Petition for Extension of Time, reconsideration of the application is respectfully requested in light of the following remarks.

Applicants thank Examiner Nguyen for the courtesy extended to Applicants' representative, Mr. Luo, during the January 13, 2004 personal interview. The substance of the interview is incorporated in the following remarks.

Claims 1-5 and 11-15 are pending in this application.

The Office Action rejects claims 1-5, 11-13 and 15 under 35 U.S.C. §103(a) over U.S. Patent No. 5,043,816 to Nakano et al. ("Nakano") in view of U.S. Patent No. 5,920,349 to Okino et al. ("Okino") further in view of U.S. Patent No. 5,479,211 to Fukuda. This rejection is respectfully traversed.

The Office Action acknowledges that Nakano and Okino do not disclose or suggest shooting evaluation means for evaluating a good or bad shooting state of the image data

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imaged by the image pickup means based on amount of encoded image data by the image compressing means, as recited in claims 1-5 and 11-13, and similarly recited in claim 15. However, the Office Action asserts that Fukuda discloses this feature. Applicants respectfully submit that Fukuda does not disclose or suggest evaluating a good or bad state of the image data based on the data amount of the encoded image data, and thus does not supply the subject matter outlined above as lacking in Nakano and Okino.

As discussed during the interview, Fukuda discloses an image data decoding apparatus having a judging circuit 18 for obtaining maximum frequency components of decoded image data. See Figs. 1 and 2, col. 5, lines 48-61, and col. 6, lines 47-64. The decoded image data is supplied from an inverse quantizing circuit 12 to the judging circuit 18. See Fig 1, and col. 5, lines 48-61. Thus, the maximum frequency components obtained by the judging circuit 18 (or horizontal maximum frequency judging circuit 22 and vertical maximum frequency judging circuit 23) are based on decoded image data. Nowhere does Fukuda disclose or suggest evaluating a good or bad shooting state of the image data based on a data amount of the encoded image data. Therefore, as agreed to in the interview, Fukuda does not supply the subject matter outlined above as lacking in Nakano and Okino. Accordingly, Nakano, Okino and Fukuda, either individually or in combination, do not disclose or suggest the subject matter recited in claims 1-5 and 11-13, and similarly recited in claim 15.

Furthermore, Applicants respectfully submit that one of ordinary skill in the art would not have been motivated to combine Fukuda with Nakano and Okino.

Both Nakano and Okino are related to image pickup devices, such as cameras. See col. 1, lines 7-8 of Nakano, and col. 1, lines 9-11 of Okino. On the other hand, as discussed during the interview, Fukuda is directed to an image signal decoding apparatus. See col. 1, lines 7-10 of Fukuda. The art for analyzing image data during an image pickup process is a

different art from that of analyzing decoded image data. One of ordinary skill in the art of image pickup would not have been motivated to look to the art of analyzing decoded image data for improvement. Thus, one of ordinary skill in the art would not have been motivated to combine Fukuda with Nakano or Okino.

The Office Action appears to be engaged in impermissible hind-sight reconstruction using the present application as a road map to pick and choose features out of the references. Thus, the Office Action has failed to carry its burden of establishing a *prima facie* case of obviousness, because it has failed to show any motivation for combining Fukuda with Nakano or Okino.

For at least the above reasons, withdraw of the rejection of claims 1-5, 11-13 and 15 under 35 U.S.C. §103(a) is respectfully requested.

The Office Action rejects claim 14 under 35 U.S.C. §103(a) over Nakano and Okino in view of Fukuda and further in view of U.S. Patent No. 5,359,382 to Uenaka. This rejection is respectfully traversed.

Uenaka does not supply the subject matter outlined above as lacking in Nakano, Okino and Fukuda. Therefore, Nakano, Okino, Fukuda and Uenaka, either individually or in combination, do not disclose or suggest the subject matter recited in claim 1, and claim 14 depending therefrom. Withdraw of the rejection of claim 14 under 35 U.S.C. §103(a) is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-5 and 11-15 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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MAC:GXL/sqb

Attachment:

Petition for Extension of Time

Date: January 13, 2004

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